

1 ARIEL E. STERN, ESQ.
2 Nevada Bar No. 8276
3 TENESA S. POWELL, ESQ.
4 Nevada Bar No. 12488
5 AKERMAN LLP
6 1635 Village Center Circle, Suite 200
7 Las Vegas, NV 89134
8 Telephone: (702) 634-5000
9 Facsimile: (702) 380-8572
10 Email: ariel.stern@akerman.com
11 Email: tenesa.powell@akerman.com

12 *Attorneys for The Bank of New York Mellon
13 fka The Bank of New York, as Trustee for The
14 Certificateholders CWMBS, Inc., CHL
15 Mortgage Pass-Through Trust 2006-3
16 Mortgage Pass-Through Certificates, Series
17 2006-3*

18 **UNITED STATES DISTRICT COURT**

19 **DISTRICT OF NEVADA**

20 THE BANK OF NEW YORK MELLON FKA
21 THE BANK OF NEW YORK, AS TRUSTEE
22 FOR THE CERTIFICATEHOLDERS CWMBS,
23 INC., CHL MORTGAGE PASS-THROUGH
24 TRUST 2006-3 MORTGAGE PASS-THROUGH
25 CERTIFICATES, SERIES 2006-3,

26 vs. Plaintiff,

27 TRACCIA COMMUNITY ASSOCIATION; SFR
28 INVESTMENTS POOL 1, LLC; and NEVADA
ASSOCIATION SERVICES, INC.,

Defendants.

Case No.: 2:17-cv-01802-JCM-NJK

**STIPULATION AND ORDER RE: SECOND
AMENDED NOTICE OF RULE 30(b)(6)
DEPOSITION OF THE BANK OF NEW
YORK MELLON FKA THE BANK OF
NEW YORK, AS TRUSTEE FOR THE
CERTIFICATEHOLDERS CWMBS, INC.,
CHL MORTGAGE PASS-THROUGH
TRUST 2006-3 MORTGAGE PASS-
THROUGH CERTIFICATES, SERIES
2006-3**

29 Plaintiff The Bank of New York Mellon fka The Bank of New York, as Trustee for The
30 Certificateholders CWMBS, Inc., CHL Mortgage Pass-Through Trust 2006-3 Mortgage Pass-Through
31 Certificates, Series 2006-3 (**BoNYM**) and SFR Investments Pool 1, LLC (**SFR**) stipulate as follows:

32 1. SFR served a notice of Rule 30(b)(6) deposition continuing 14 topics on BoNYM on
33 February 15, 2018. The deposition is scheduled for March 8, 2018.

1 2. SFR served a substantially similar notice of Rule 30(b)(6) deposition on Bank of
2 America, N.A. (**BANA**) in *Bank of Am., N.A. v. Lake Mead Court Homeowners' Ass'n et al*, D. Nev.
3 Case. No. 2:16-cv-00504-GMN-NJK. BANA, through Akerman LLP (who also represents BoNYM
4 in this case) initially disputed seven of the thirteen noticed topics: **(1) topic 5**, which seeks information
5 concerning BANA's alleged damages; **(2) topic 6**, which seeks information concerning what
6 investigation, if any, BANA made into title or encumbrances before acquiring an interest in the deed
7 of trust; **(3) topic 7**, which seeks information concerning what investigation, if any, BANA made into
8 title or encumbrances before the HOA's foreclosure sale; **(4) topic 8**, which seeks information
9 concerning BANA's acquisition of its interest in the note and deed of trust; **(5) topic 9**, which seeks
10 information concerning BANA's "knowledge regarding creation, execution and recording" of the
11 recorded assignment(s); **(6) topic 11**, which seeks information concerning BANA's communications
12 with its "predecessor in interest" regarding the HOA's CC&Rs "and title or encumbrances;" and **(7)**
13 **topic 12**, which seeks information concerning "[a]ll facts and circumstances in which [BANA]
14 contend[s] that [the HOA] and its foreclosure agent failed to comply" with NRS chapter 116 in
15 conducting the foreclosure sale (collectively, the **disputed topics**).

16 3. BANA and SFR met and conferred concerning the disputed topics pursuant to L.R. 26-
17 7 in connection SFR's deposition notice in *Lake Mead*. SFR agreed to limit or withdraw four of the
18 seven disputed topics based on the meet and confer. To avoid unnecessary fees and costs, BoNYM
19 and SFR stipulate to apply the agreement BANA and SFR reached in the *Lake Mead* meet and confer
20 to SFR's notice of deposition in this case as set forth below:

21 a. **Topic 6:** SFR's inquiry into topic 6 shall be limited to investigations into title
22 that revealed Traccia Community Association's lien.

23 b. **Topic 7:** SFR's inquiry into topic 7 shall be limited to investigations into title
24 that revealed Traccia Community Association's lien and/or foreclosure notices.

25 c. **Topic 11:** SFR's inquiry into topic 11 shall be limited to communications
26 between BoNYM and its "predecessor in interest" regarding Traccia Community Association's
27 foreclosure notices, CC&Rs and lien.

d. **Topic 12:** SFR has already or will seek the information it seeks to obtain through deposition topic 12 via an interrogatory. BoNYM agrees to substantively respond to SFR's interrogatory subject to any written objections. SFR will withdraw deposition topic 12 when BoNYM serves its interrogatory response.

4. BANA and SFR were unable to resolve their dispute concerning the remaining three disputed topics (*i.e.*, topics 5, 8 and 9) during their *Lake Mead* meet and confer but, to avoid litigation costs and unnecessarily burdening the Court with substantially-similar motions for protective order and agreed the parties will apply the Court's ruling in other similarly-situated cases. BANA moved for a protective order in *Lake Mead* on January 24, 2018. The motion remains pending.

5. Pursuant to the agreement reached in the *Lake Mead* meet and confer, BoNYM and SFR agree the Court's order on BANA's motion for protective order in *Lake Mead*, D. Nev. Case No. 2:16-cv-00504-GMN-NJK, ECF No. 70, shall apply to SFR's notice of deposition in this case. SFR further stipulates BoNYM's deposition in this case is stayed as to all topics pending the Court's ruling on BANA's motion for protective order in *Lake Mead*. SFR and BoNYM will confer about a mutually-agreeable deposition date once an order enters in *Lake Mead*.

• • •

3

• • •

• • •

• • •

•

1

2 6. BoNYM and SFR jointly request the Court approve this stipulation as an order of the
3 Court.

4 DATED March 7, 2018.

5 **AKERMAN LLP**

6 */s/ Tenesa Powell*

7 ARIEL E. STERN, ESQ.
8 Nevada Bar No. 8276
9 TENESA S. POWELL, ESQ.
10 Nevada Bar No. 12488
11 1635 Village Center Circle, Suite 200
12 Las Vegas, Nevada 89134

13 *Attorneys for The Bank of New York Mellon fka
14 The Bank of New York, as Trustee for The
15 Certificateholders CWMBS, Inc., CHL Mortgage
16 Pass-Through Trust 2006-3 Mortgage Pass-
17 Through Certificates, Series 2006-3*

5 **KIM GILBERT EBRON**

6 */s/ Diana S. Ebron*

7 DIANA S. EBRON, ESQ.
8 Nevada Bar No. 10580
9 JACQUELINE A. GILBERT, ESQ.
10 Nevada Bar No. 10593
11 KAREN L. HANKS, ESQ.
12 Nevada Bar No. 9578
13 7625 Dean Martin Drive, Suite 110
14 Las Vegas, NV 89139

15 *Attorneys for SFR Investments Pool 1, LLC*

16 **ORDER**

17 **IT IS SO ORDERED:**

18 
19 **UNITED STATES MAGISTRATE JUDGE**

20 DATED: March 8, 2018